

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

AUG 15 2005

JOHN F. GORDON, CLERK
BY: *[Signature]*
DEPUTY CLERK

STEVEN SHAREFF,

Plaintiff,

v.

PATRICK INVESTIGATIONS, INC.,

Defendant.

CIVIL ACTION No. 3:03-CV-00064

MEMORANDUM OPINION

JUDGE NORMAN K. MOON

This action is before the Court on Plaintiff's motion seeking final judgment. On March 4, 2004, this Court granted partial summary judgment in favor of *pro se* Plaintiff Steven Shareff as to Defendant's violation of the Fair Debt Collection Practices Act (FDCPA), § 15 U.S.C. 1692 *et seq.* After some delay, October 1, 2004, Plaintiff filed a brief justifying the damages that he claimed (\$1,500.00) and providing support for his claims. At no time did Defendant respond or provide any information concerning these damages to the Court.

On April 15, 2005, Plaintiff filed a motion styled as one for summary judgment, which the Court takes as a motion for an entry of final judgment. Defendant still has not replied, nor has it had any contact with the Court since the withdrawal of its attorney on January 13, 2004.

In light of the evidence Plaintiff has submitted, and the failure of Defendant to file any response, the Court hereby finds that Plaintiff is entitled to damages of \$1,500.00. First, because

Virginia law allows recovery for intentional infliction of emotional distress, Plaintiff is entitled to actual damages of \$500.00 for mental anguish pursuant to 15 U.S.C. § 1692k(a)(1). *See McGrady v Nissan Motor Acceptance Corp.* 40 F. Supp.2d 1323 (M.D. Ala 1988) (holding debtor's claimed damages for mental anguish were actual damages under 15 U.S.C.

§ 1692k(a)(1) with unlimited recovery permitted, where state law allowed recovery for mental anguish damages pursuant to cause of action for intentional infliction of mental distress, and state law permitted unlimited recovery for mental anguish for invasion of privacy). Second, Plaintiff is entitled statutory damages of \$1,000.00 as provided by 15 U.S.C. § 1692k(a)(2)(A).

For the foregoing reasons, the Court shall enter final judgment in favor of Plaintiff and taxes damages against Defendant in favor of Plaintiff in the amount of \$1,500.00. .

An appropriate Order shall issue.

ENTERED:

Memorandum
U.S. District Judge

August 15, 2005
Date